

REMARKS

In the office action claims 1-42 are pending. Claims 1-26 and 39-42 were allowed, and claims 28 and 33-37 were indicated to be allowable if rewritten in independent form incorporating the base claim and any intervening claims. Claims 27, 29, 30-32 and 38 stand rejected. Reconsideration of the present application in view of the remarks that follow is respectfully requested.

Claims 27, 29, 30-32 and 38 were rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 6,332,887 to Knox. Knox discloses a distractor having a fixed arm 202 and an adjustable arm 204 attached to a bar 206 with adjustment mechanism 208. A pinion 210 includes gears 212 engaging teeth 214 "within channel 216 of rack 218 on bar 206." See col. 6, lines 15-16. A review of Fig. 5C of Knox does not find any depiction of catch 222. Catch 222 is shown in Fig. 5B and Fig. 5D at a location adjacent to the location in which pinion 210 is mounted to adjustable arm 204 via thumbscrew 220. However, neither of these views show catch 222 in a chamber defined by either of adjustable arm 204 or bar 206. The office action shows Fig. 5C and asserts that there is a "chamber" adjacent gear wheel 212. However, even if this could properly be considered to be a chamber, Figs. 5B and 5D show that catch 222 engages teeth 114 at a location outside of any such "chamber" since it is positioned at a location where teeth 114 are exposed along bar 206.

In contrast, claim 27 is directed to a device for applying a force to a spinal column segment comprising:

- a body having a first end member, said body defining a passage therethrough and a chamber in communication with said passage;
- a rack moveably received in said passage, said rack having a second end member opposite said first end member;
- a driving mechanism in operative engagement with said rack to move said first and second end members in an extend direction for application of a distraction force and in a retract direction for application of a compression force;
- and
- a lock member positioned in said chamber of said body, said lock member having a lock pin engaged thereto engageable to move said lock member between

a first position wherein said lock member engages said rack and a second position wherein said lock member is not engaged with said rack.

As discussed above, Knox does not disclose catch 222 or any other lock member in a chamber of a body defining a passage receiving the rack. Accordingly, Knox fails to disclose each of the elements in claim 27, and withdrawal of the rejection of the same in view of Knox is respectfully requested.

Claims 29, 30-32 and 38 depend directly or indirectly from claim 27, and are allowable at least because claim 27 is allowable and also for the reasons provided above. Accordingly, withdrawal of the rejection of claims 27, 29-32 and 38 under 35 USC §102(b) in view of Knox is respectfully requested.

In view of the above, claims 1-42 are in condition for allowance. A Notice of Allowance for the present application is respectfully requested. The Examiner is welcome to contact the undersigned to resolve any outstanding issues with regard to the present application.

Respectfully submitted

By: 

Douglas A. Collier
Reg. No. 43,556
Krieg DeVault LLP
One Indiana Square
Suite 2800
Indianapolis, Indiana 46204-2079
Phone: (317) 636-4341
Facsimile: (317) 636-1507

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Page 3 of 3